

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

DANIEL ROSENFIELD,

Plaintiff,

v.

THOMAS P. FRANK, et al.,

Defendants.

CIVIL ACTION NO. 4:18-cv-00568

(SAPORITO, M.J.)

**ORDER**

AND NOW, this 4<sup>th</sup> day of June, 2019, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED THAT:**

1. The defendants' motion for judgment on the pleadings (Doc. 16) is **GRANTED in part and DENIED in part**—the motion is granted with respect to dismissal of the plaintiff's claims for failure to state a claim upon which relief can be granted, and it is denied with respect to the defendants' request for the entry of judgment as a matter of law on their abuse of process counterclaim;

2. Counts I, II, and III of the complaint, asserting state law claims of negligent misrepresentation, fraud, and unfair trade practices, are **DISMISSED with prejudice**;

3. The plaintiff is granted leave to file an amended complaint **within 21 days** of the date of this Order, adding any contract or

warranty causes of action that the facts may support; and

4. The parties shall proceed with discovery concerning the defendants' counterclaim, asserting a state law claim of abuse of process.

s/Joseph F. Saporito, Jr.  
JOSEPH F. SAPORITO, JR.  
United States Magistrate Judge